

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In Re:	Case No.: 22-40003-WJF
Park Supply of America, Inc.,	Chapter 11
Debtor.	

NOTICE OF HEARING AND MOTION OBJECTING TO CLAIM # 13

Park Supply of America, Inc. (the “Debtor”), by and through its undersigned attorneys, submits this objection to Bradley Parkhill’s (“Parkhill”), claim against Debtor. *See* Claim Register at 13. In support of its objection, the Debtor states as follows:

1. The court will hold a hearing on this motion **at 10:00 a.m., on Tuesday, November 8, 2022**, before the Honorable William J. Fisher, Courtroom 2A, Warren E. Burger Federal Building and U.S. Courthouse 316 North Robert Street, St. Paul, Minnesota 55101. The hearing may be conducted telephonically.
2. Any response to this motion must be filed and delivered not later than **November 3, 2022**, which is five (5) days before the hearing. **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**
3. This motion arises under 11 U.S.C. § 502 and Local Rule 3007-1. This motion is filed under Bankruptcy Rule 9014 and Local Rule 9013 and served in accordance with Bankruptcy Rule 3007. Movant requests relief with respect to the claim filed by Parkhill, entered as Claim No. 13 in the total amount of \$2,240,117.05 and does specifically seek an Order of this Court disallowing said claim in its entirety.

FACTUAL BACKGROUND

4. On January 3, 2022, the Debtor filed a petition praying for an Order for relief under chapter 11 of title 11 of the United States Code. [ECF # 1]

5. The Court has jurisdiction over this motion pursuant to 28 U.S.C. §§ 157 and 1334, Bankruptcy Rule 5005, and Local Rule 1070-1.

6. This is a core proceeding.

7. The case is currently pending before this Court.

8. Parkhill filed Claim 13 on February 24, 2022, for the amount of \$2,240,117.05. [Claim # 13].

9. The proof of claim states the claim arises from Parkhill's "cross claim for indemnity, contribution and reimbursement" in the pre-petition state court litigation commenced by Sunrise Bank¹ against the Debtor and Parkhill. *Id.* at Exhibit A.

10. In his answer to the state court complaint, Parkhill denies he has any liability to Sunrise Bank pursuant to his guaranty. *Id.*

11. Furthermore, the proof of claim does not allege Parkhill has made any payments to Sunrise Bank pursuant to his guaranty.

12. Section 502(e)(1)(B) requires the disallowance of a claim for reimbursement "to the extent ... that such claim ... is contingent as of the time of the allowance or disallowance of such claim." *See*, 11 U.S.C. 502(e)(1)(B).

13. Since Parkhill has not paid Sunrise Bank or DCR Mortgage any amount pursuant to his guaranty, thereby establishing his right to payment from the Debtor, as of the date of this

¹ On June 15, 2022, Sunrise Bank transferred its claim (claim # 15) to DCR Mortgage 10 Sub 2, LLC ("DCR Mortgage"). Accordingly, DCR Mortgage now stands in the place of Sunrise Bank with respect to claim # 15.

objection, Parkhill's claim is contingent and must be disallowed under § 502(e)(1)(B). *See, In re Friendship Child Dev. Ctr., Inc.*, 164 B.R. 625, 627 (Bankr. D. Minn. 1992).

WHEREFORE, the Debtor moves the Court for an Order disallowing Claim No. 13 filed by Parkhill, in the total amount of \$2,240,117.05, and for such other relief as may be just and equitable.

FOLEY & MANSFIELD, PLLP

Dated: October 7, 2022

By: /s/ Cameron A. Lallier

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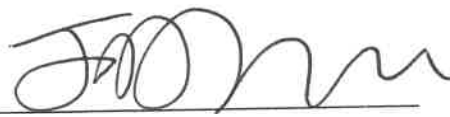
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VERIFICATION

I, James Dada, declare under penalty of perjury that the facts set forth in the preceding objection are true and correct, according to the best of my knowledge, information and belief.

Dated: October 7, 2022


James Dada

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Chapter 11

ORDER DISALLOWING CLAIMS

This matter came before the Court upon the motion of the Debtor, seeking an order disallowing the claim filed Bradley Parkhill, entered as Claim No. 13 in the amount of \$2,240,117.05. Based upon the motion, the file and the records herein,

IT IS HEREBY ORDERED:

1. The Debtor's motion is **GRANTED**.
2. Claim No. 13 filed by Bradley Parkhill, in the amount of \$2,240,117.05, is disallowed.

Dated: _____

William J. Fisher
United States Bankruptcy Judge